

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5596 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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ABDULRAHEMAN NOORMIYA SHAIKH

Versus

STATE OF GUJARAT

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Appearance:

MR CL SONI for Petitioner

Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 2-5-96 passed by the Police Commissioner,. Ahmedabad City whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 3-5-96 and since then the

petitioner is under detention lodged at Rajkot District Jail, Rajkot.

2. This Special Civil Application was filed in this court on 30-7-96 and on 31-7-96 Rule returnable on 26-8-96 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that a criminal case under the Bombay Prohibition Act being Criminal Case No.117/96 was registered against the petitioner and the case was pending investigation at the time when the detention order was passed. Besides these, the detaining authority has taken into consideration the statements made by 4 witnesses against the petitioner's anti social and bootlegging activities. The petitioner has been publicly beating innocent people and has become a problem for public order. He has been detained as a bootlegger.

4. The order of detention is challenged on more than one grounds. But the learned counsel for the petitioner has stressed the point that no case of breach of public order is made out.

5. In view of the law laid down by this court on 4-10-96 in Special Civil Application No.3879/96 no case of breach of public order is made out. The allegations and materials, which have been relied upon by the detaining authority against the petitioner, show that at the most it is a case of breach of law and order. The detention order, therefore, deserves to be set aside on this ground alone.

6. Accordingly the Special Civil Application is allowed and the impugned detention order dated 2-5-96 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.